



STATE OF NEVADA
COMMISSION ON ETHICS
<http://ethics.nv.gov>

Wednesday, January 10, 2007
10:00 a.m.

Nevada Commission on Ethics
3476 Executive Pointe Way, Suite 10
Carson City, Nevada 89706

and, via telephone conference call:

Nevada Commission on Ethics
2030 E. Flamingo Road, Suite 125
Las Vegas, Nevada 89119

MINUTES
of the
Subcommittee appointed to evaluate the
Executive Director

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics, Subcommittee.
A verbatim transcript of the open session proceedings is available for inspection at the Commission offices.

Subcommittee Members Present (by phone):
Jim Kosinski, Esq., Chairman;
Randall Capurro; Caren Jenkins, Esq.

Staff Members Present (in Carson City):
L. Patrick Hearn, Executive Director;
Adriana G. Fralick, Esq., General Counsel;
Emily H. Nunez, Office Manager

Staff Members Present (in Las Vegas):
Matt C. DiOrio, Senior Investigator;
Tami DeVries, Research Analyst

Chairman Kosinski called the meeting to order at 10:00 a.m., Wednesday, January 10, 2007.

Agenda Item 1 – Open Session

Chairman Kosinski opened this agenda item, an open session for discussion and possible action to evaluate the job performance of the Executive Director of the Commission.

Chairman Kosinski stated that, in response to an e-mail the subcommittee received from General Counsel, Adriana Fralick, with regard to the open meeting law and serial meetings, they would not be approving anything during subcommittee meetings except to agree on a criteria for evaluating the executive director. Rather than polling Commissioners regarding their thoughts or opinions about how the executive director has been fulfilling his duties, as discussed at the previous meeting, we will wait until an open meeting of the full Commission to apply the job description criteria developed by the subcommittee. The Commissioners will then have an opportunity to make any changes at that time. The Commission will then move forward to complete an evaluation at the Jan 24 or Feb 14 meeting.

Commissioner Jenkins stated that she did not believe it would create a serial meeting if each subcommittee member contacted two other members. She believes the commissioners and staff would be more apt to be forthcoming if comments were considered anonymously. Chairman Kosinski stated that, although it may make commissioners uncomfortable to express themselves at an open meeting, they have an obligation to do so. The personnel session will be properly noticed and open.

Commissioner Jenkins clarified that it is not really a “personnel session” since there is no discriminatory intent, and since these positions are unclassified positions who serve at the pleasure of the Commission. Tami DeVries, Research Analyst advised the members that, according to the open meeting law, NRS 241.031 addresses this particular issue and does state that “...a public body should not hold a closed meeting to consider character, alleged misconduct and professional incompetence of...” and, therefore, a performance evaluation is not to be held in a closed meeting.

Chairman Kosinski requested that Pat Hearn include on the January or February agenda an item to evaluate the executive director. The Commission will use criteria that the subcommittee adopts although it may be amended at the January 24 meeting, and the subcommittee’s duty is limited to developing a set of criteria which will be used. The personnel description is a very helpful document to be used for the evaluation, as well as a presentation by the executive director of the annual report that was presented to the commission early in July. He also stated that the Commission was concerned in the delay of processing many of the complaints that were received by the staff of the commission and that we were understaffed for a significant period of time. Chairman Kosinski stated that he feels with a full staff operating for some months now, he would like to have this discussed when there is time to agendize the evaluation. He wants Pat to bring the Commission up-to-date on necessary time period for advisory opinions and 3rd party complaints through the 4th quarter of calendar 2006. Commissioners Jenkins and Capurro agreed.

The subcommittee then discussed the actual existing job description changes suggested by Commissioner Jenkins and suggestions provided to them by the executive director.

Commissioner Jenkins was concerned about the different versions in the job description being “passive” such as the use of words like “coordinates” and “oversees” because then the executive director would not have ultimate responsibility. As written, the descriptions direct the responsibilities to an unknown person or unnamed responsibility. But rather, she stated the executive director will accomplish in its entirety the functions of the agency himself or through staff he is budgeted to have. “Oversees” does not mean “prepares” for meetings. The Executive Director must be responsible for making sure duties are all done. Chairman Kosinski stated that the Commission would do that anyhow. If the executive director says he told staff to schedule a meeting and staff fails to do so, the executive director will be held responsible for his failure to ensure the meeting was properly scheduled. The Commission will not accept as an excuse, the failure of staff to carry out their duties.

The subcommittee then discussed each duty listed in the job description and made changes to bring to the Commission at the January 24, 2007 meeting.

Chairman Kosinski requested that in the future, Pat Hearn e-mail publications of the Council on Governmental Ethics Laws (COGEL) to all Commissioners. He also suggested that the annual report of the executive director should now become a quarterly report, and that the executive director agendaize this item on a quarterly basis to update the Commission on the status of cases received.

Chairman Kosinski moved to approve the position description as amended, as a set of guidelines to evaluate the executive director. Commissioner Capurro seconded the motion. The motion passed.

The Subcommittee decided they would not meet again on January 17, 2007, and that they will present the newly revised personnel job description to the Commission at the January 24, 2007, meeting. Chairman Kosinski requested that Pat Hearn revise page 7 of the executive director’s annual report for the 2nd quarter of Fiscal Year 2007 and have this item agendaized for the next meeting with time available for the executive director review. This is intended as a helpful tool for the Commission to see the status of the case backlog and determine if any changes, or if any additional staff, is needed.

Chairman Kosinski closed this agenda item.

Agenda Item 2 – Open session for public comment.

Chairman Kosinski opened this agenda item for public comment. No public comment was made, and this agenda item was closed.

Chairman Kosinski adjourned the meeting at approximately 11:20 a.m.

Minutes transcribed by:

Minutes approved March 14, 2007

Emily H. Nunez, Office Manager

Jim Kosinski, Esq., Chairman